

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 15-cv-01696-LTB

**ZACHARY LOUIS MARNER,**

Plaintiff,

v.

**ACCOUNT BROKERS, INC.;**  
**KELLY M. BRNENGER;** and  
**A & J TIRE AND AUTOMOTIVE,**

Defendants.

---

**ORDER OF DISMISSAL**

---

On August 7, 2015, Plaintiff, Zachary Louis Marner, submitted to the court yet another *pro se* complaint (ECF No. 1). As part of the court's review pursuant to D.C.COLO.LCivR 8.1(b), the court determined that Mr. Bramscher's pleadings were deficient. In an order entered on September 16, 2015, Magistrate Judge Gordon P. Gallagher directed Plaintiff to cure certain deficiencies if he wished to pursue his claims. Specifically, Magistrate Judge Gallagher informed Plaintiff to file a second amended complaint in accordance with the directives within his order (ECF No. 6). That Order specifically informed Mr. Marner that this action would be dismissed without further notice if he failed to file a second amended complaint within thirty days.

Plaintiff has failed to file a second amended complaint within the time allowed. Therefore, the action will be dismissed without prejudice for failure to prosecute and for failure to follow a court order.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order is not taken in good faith, and, therefore, *in forma pauperis* status is denied

for the purpose of appeal. See *Coppedge v. United States*, 369 U.S. 438 (1962). If Plaintiff files a notice of appeal he must also pay the full \$505 appellate filing fee or file a motion to proceed *in forma pauperis* in the Tenth Circuit within thirty days in accordance with Fed. R. App. P. 24. Accordingly, it is

**ORDERED** that the Complaint and the action are dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to file a second amended complaint, failure to comply with this Court's September 16, 2015 Order, and for failure to prosecute. It is

**FURTHER ORDERED** that leave to proceed *in forma pauperis* on appeal is denied.

DATED at Denver, Colorado, this 21<sup>st</sup> day of October, 2015.

BY THE COURT:

s/Lewis T. Babcock  
LEWIS T. BABCOCK, Senior Judge  
United States District Court